

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ROCAEL ANTONIO CULAJAY,  
Individually and on behalf of  
all others similarly situated,

Plaintiff,

MEMORANDUM & ORDER  
16-CV-6597 (JS) (GRB)

-against-

P.M.F. STEEL CORP., HELDER  
CARDOSO, and MARIA G. MARTINS,

Defendants.

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APPEARANCES

For Plaintiff: Roman M. Avshalumov, Esq.  
Helen F. Dalton, Esq.  
James Patrick Peter O'Donnell, Esq.  
Helen F. Dalton & Associates, P.C.  
69-12 Austin Street  
Forest Hills, NY 11375

For Defendants: No appearance

SEYBERT, District Judge:

Pending before the Court are: (1) Plaintiff's motion for entry of a default judgment (Pl.'s Mot., Docket Entry 14), and (2) Magistrate Judge Gary R. Brown's Report and Recommendation ("R&R") (R&R, Docket Entry 16) recommending that this Court grant Plaintiff's motion for entry of a default judgment, but deny the request for a damages award with leave to renew. For the following reasons, the Court ADOPTS Judge Brown's R&R in its entirety.

BACKGROUND

Plaintiff, on behalf of himself and all others similarly situated, commenced this action on November 29, 2016, asserting

claims for unpaid overtime wages under the Fair Labor Standards Act ("FLSA") and New York Labor Law ("NYLL") and for violations of the notice, recordkeeping, and wage statement provisions of NYLL. (Compl., Docket Entry 1, ¶¶ 47-63.) P.M.F. Steel Corp., Helder Cardoso, and Maria G. Martins (collectively "Defendants") failed to appear.

On May 18, 2017, Plaintiff filed a motion for entry of a default judgment. (See Pl.'s Mot.) On October 16, 2017, the undersigned referred the motion to Judge Brown for a report and recommendation on whether the motion should be granted and, if necessary, to determine the appropriate amount of damages, costs and/or fees to be awarded. (Referral Order, Docket Entry 15.)

#### The R&R

Judge Brown issued his R&R on February 21, 2018. He recommends that the Court enter a default judgment against Defendants. (R&R at 2.) However, because Plaintiff failed to submit documentation to support a damages award, Judge Brown recommends that the request for damages be denied with leave to renew.

#### DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court

need only satisfy itself that there is no clear error on the face of the record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen (14) days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Brown’s R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

#### CONCLUSION

For the foregoing reasons, Judge Brown’s R&R (Docket Entry 16) is ADOPTED in its entirety. Plaintiff’s motion for entry of a default judgment (Docket Entry 14) is GRANTED IN PART and DENIED IN PART. Plaintiff’s request for entry of a default judgment against Defendants is GRANTED, but the request for damages is DENIED with leave to renew. Plaintiff is directed to file a motion for damages, along with the appropriate evidence, within thirty (30) days of the date of this Memorandum and Order.

SO ORDERED.

Dated: March 20, 2018  
Central Islip, New York

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.